

their nurse practice acts to allow the delegation of certain tasks, such as administering medication, caring for wounds, and changing catheters (Kane, 1997). A number of states, such as Oregon, Kansas, Texas, Minnesota, and New York, have included nurse delegation provisions, but the latitude and interpretations of the provisions vary tremendously. Not surprisingly, they have met serious resistance by many nurses' organizations, for whom professional turf is as significant as care issues.

The motives of the assisted living industry have also been questioned. The industry includes more real estate developers and hotel managers than care providers. Furthermore, as nursing homes look for new markets and reimbursement strategies that circumvent government regulation, many skilled nursing facilities may simply lay carpet, install door locks, and hang out the "assisted living" shingle. Finally, there are questions about the amount of assistance that these facilities actually provide. According to the study by Hawes et al., 65 percent of the participating facilities supplied "low service"; that is, they did not have an RN on staff or did not provide nursing care, although they did provide 24-hour staff oversight, housekeeping, two meals, and personal assistance. Another 5 percent, categorized as "minimal service," supplied no personal assistance with ADLs. Given that many facilities do not admit or retain people with severe physical disabilities or cognitive impairment, the level of care is additional cause for concern.

[From the New York Times, May 8, 1999]

#### THE NEED FOR CARE AS WELL AS PROFIT

Among other things, the 1990's will be remembered as the decade when developers and older, affluent, anxious Americans discovered each other with enthusiasm, with results both encouraging and worrisome. The concept that both they and Wall Street have embraced is called assisted living. There is no common definition of it. Each of the 50 states regulates it differently, and the Federal Government not at all. But to older retirees who can pay to live in the new and reconditioned spaces sprouting across the country, the assisted living communities offer something irresistible. It is the promise of Pleasantville, where they can live out their lives gracefully, with hotel services, assistance when they need it, and the chance to hold off or avoid what many of the aged most fear—the nursing home.

For developers, some with no experience in caring for the aged, the attraction is clear. The number of old people of financial means is growing. Some 6.5 million now need some help with the chores of daily living. That figure is expected to double by 2020. Ten years ago there was not even an industry trade group. Today the Assisted Living Federation of American estimates there is a kaleidoscopic collection of about 30,000 such facilities in the United States, with a million old people living in them, almost all of whom pay their own way.

Some facilities fall into state licensing categories and some do not. Their average national monthly rate per person is \$1,500 but elegant two-bedroom units on Long Island may rent for \$5,000 or more. The National Investment Conference, a group that specializes in the senior housing market, found in a survey of 73 assisted living developments released this year that the median profit margin was 29 percent. For a quarter of the properties, it was more than 35 percent. Those numbers warm Wall Street, but do not guarantee that the communities deliver high-quality services.

Because the phenomenon has grown up around existing rules, many kinds of places can advertise "assisted living." A Government Accounting Office survey, performed at the request of the U.S. Senate Special Committee on Aging, found that about half the residents sign up without being sure what services the facilities provide, how much they cost or what medical care the residents can count on. A quarter of the places surveyed were cited for five or more problems involving quality of care or resident protection within two years.

When Albert Fleischmann, 85, a St. Petersburg Yacht Club member and retired owner of a hardware chain, moved into an assisted living facility in Pinellas County, Florida, in 1997, his daughter was reassured. Patricia Fleischmann Johnson heads a charity that serves as guardian for 134 people in such places. But when Mr. Fleischmann suffered a heart attack at his table in the dining room this year, he was ignored. He called his daughter. She took him to the hospital. She then called back to ask the facility how he was, and was told—as if he were there—that he was "fine." Because Mr. Fleischmann likes the place, he is still there. But his daughter, who testified before the Senate committee, is more concerned now, and she is not alone.

There are no pending bills in Congress, but 32 states are expected to consider legislation this year to increase regulation of the assisted living industry. They should do so. With so many frail lives and so much money involved, this issue is not going away.

#### HONORING DR. SAM CALLAWAY

##### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 2000

Mr. McINNIS. Mr. Speaker, it is with deepest sympathy that I wish to recognize the life and exceptional contributions of Dr. Sam Callaway. Sam Callaway passed away on July 12, 2000 at the age of 86. Dr. Callaway served the community of Durango, Colorado for forty-two years, beginning his practice in 1946 and retiring in 1998. Dr. Callaway cared for his patients, giving both time and compassion to each person he treated. His dedication was evident in his manner, his attitude of interest and in his practice of going to patients in need, day or night. Known for his bedside manner, Sam Callaway was a model of kindness and gentility. Dr. Callaway was not only appreciated and respected by his patients, but also by his colleagues. He was often requested to assist in surgeries. Dr. Callaway was active in the community as well, serving as a member of the Durango Elks Lodge and Masonic Lodge. He served our country in the Navy during World War II as part of the medical corps in the South Pacific. Mr. Speaker, Dr. Callaway was a selfless man, giving endlessly to ensure the well-being of others. His service to this great nation, as well as his 42 years of medical service and countless years of kindness to the citizens of the Durango community, are honorable and worthy of recognition. I am confident that in spite of this great loss, the family and friends of Dr. Sam Callaway can take comfort in the knowledge that each is a better person for having known

him. It is with this that I pay tribute to the life of this accomplished and wonderful man.

#### REPEAL OF THE FEDERAL CHARTER OF THE BOY SCOUTS OF AMERICA

##### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 2000

Mr. CARDIN. Mr. Speaker, the House of Representatives recently voted on H.R. 4892, a bill to repeal the federal charter of the Boy Scouts of America. I voted against the bill, and would like to take this opportunity to explain my reasons.

My vote against this legislation should not in any way be interpreted as a weakening in my support for banning discrimination on the basis of sexual orientation. I deplore discrimination on the basis of sexual orientation. I will continue to work to meaningfully expand our nation's civil rights protections for gays and lesbians.

At the same time, I share the concerns raised by others about the policy of discrimination that gave rise to the Supreme Court case in *Boy Scouts of America versus Dale*. Certainly we all recognize the high regard the Boy Scouts of America are held in by millions of Americans. The organization has played a positive role in the lives of millions of young Americans.

In June, a sharply divided Supreme Court held that applying New Jersey's public accommodations law to require the Boy Scouts to admit a homosexual member violates the Boy Scouts' First Amendment right of expressive association. As a practical matter, therefore, the Boy Scouts will be permitted to exclude citizens from participating in their organization solely on the basis of their sexual orientation. I regret the Supreme Court's decision.

Unfortunately, a Congressional review of the federal charter given to the Boy Scouts, and the process the Republican leadership has employed in bringing this bill to the House floor, is not the appropriate venue to address this issue. I am disappointed that the Judiciary Committee did not fulfill its responsibility to hold hearings on this legislation. I strongly believe that the Republican leadership has not properly reviewed the underlying legal and constitutional issues at stake in this bill, and I regret that the bill has been brought up under the suspension of the rules. Under this procedure, members have no opportunity to ask questions or offer amendments. Rather than considering legislation to revoke the federal charter of the Boy Scouts—which in and of itself will do nothing to protect our society from discrimination—this Congress should be considering substantive legislation to strengthen anti-discrimination laws based on one's sexual preference.

I also believe that Congress should conduct a comprehensive review of its system of granting charters to private organizations. As you know, Congress has chartered roughly 90 nonprofit corporations over the years, including many well-known patriotic, charitable, historical, or educational purpose organizations. I